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APPLICATION NO	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO	CONFIRMATION NO
09 579,938	05 26 2000	Timothy J Williams	TJW-00100	8295

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EXAMINER

SORKIN, DAVID L

ART UNIT	PAPER NUMBER
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1723

DATE MAILED 11 26 2001

Please find below and/or attached an Office communication concerning this application or proceeding.

MF-4

Office Action Summary

Application No.

09/579,938

Applicant(s)

WILLIAMS, TIMOTHY J

Examiner

David L. Sorkin

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 October 2001.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-28 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-28 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☒ The proposed drawing correction filed on 18 October 2001 is: a) ☒ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTC-413) Paper No(s) _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ 6) ☐ Other

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DETAILED ACTION

Drawings

1. The proposed drawing correction and/or the proposed substitute sheets of drawings, filed on 18 October 2001 have been accepted. Applicant must still comply with the "Draftperson's Notice" included with paper No. 2.

Specification

2. The disclosure is objected to because of the following informalities: On page 11, line 13, "360 degree radius" should read - - circumference - -. While the marked-up copy of the amendment includes such a correction, the clean copy does not. The clean copy is considered the "official copy".

Appropriate correction is required.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-18 and 22-25 are rejected under 35 U.S.C. 102(b) as being anticipated by Stockton (US 2,802,649). Regarding claim 1, Stockton ('649) discloses an apparatus for holding paint comprising paint storage compartments (50) having front, back, first and second sides and a base; a frame (10) configured for holding the paint storage compartments; and means (45,46) for dispensing removably coupled to the storage compartment for dispensing paint from the storage compartments. Regarding claim 2,

the frame is configured for holding a plurality of paint storage compartments (see fig. 1). Regarding claim 3, the means for dispensing includes a spigot assembly (45,46). Regarding claim 4, the frame includes mounting slots in the back for mounting the frame on a wall (see fig. 1, col. 1, lines 70-72). Regarding claim 5, the apparatus further comprises a lid (40) for selectively covering the paint storage compartment; and means for stirring (13,14,15,16,17) removably coupled to the lid. Regarding claim 6 the means for stirring further comprises a circular base (15) having a central axis; a rod (14) coupled to the circular base; and a stirring fan (13) coupled to the rod and having a plurality of fins (see fig. 3). Regarding claim 7, Stockton ('649) discloses a paint comprising paint storage compartment (50) having front, back, first and second sides and a base; a frame (10) configured for holding the paint storage compartments; a lid (40) for covering the paint storage compartment; and a stirring assembly (13,14,15,16,17) removably coupled to the lid. Regarding claim 8, the frame is configured for holding a plurality of paint storage compartments (see fig. 1). Regarding claim 9, the frame includes mounting slots in the back for mounting the frame on a wall (see fig. 1, col. 1, lines 70-72). Regarding claim 10 the stirring assembly further comprises a circular base (15) having a central axis; a rod (14) coupled to the circular base; and a stirring fan (13) coupled to the rod and having a plurality of fins (see fig. 3). Regarding claim 11, Stockton ('649) discloses an apparatus for holding paint comprising a paint storage compartment (50) having front, back, first and second sides and a base; a frame (10) configured for holding the paint storage compartment; a dispensing mechanism (45,46) removably coupled to the storage compartment for dispensing paint

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from the storage compartments; a lid (40) for covering the paint storage compartment; and a stirring assembly (13,14,15,16,17) removably coupled to the lid. . Regarding claim 12, the frame is configured for holding a plurality of paint storage compartments (see fig. 1). Regarding claim 13, the dispensing mechanism includes a spigot assembly (45,46). Regarding claim 14, the frame includes mounting slots in the back for mounting the frame on a wall (see fig. 1, col. 1, lines 70-72). Regarding claim 15 the stirring assembly further comprises a circular base (15) having a central axis; a rod (14) coupled to the circular base; and a stirring fan (13) coupled to the rod and having a plurality of fins (see fig. 3). Regarding claim 16, Stockton ('649) discloses a reusable paint container comprising a paint compartment (50); a body (10) configured for holding the paint storage compartment having front, back, first and second sides and a base; a lid (40) removably coupled to the paint compartment having an outer side, an inner opposite side and a small aperture (through 44) through the lid; a stirring mechanism (13,14,15,16,17) removably coupled to the lid having an integrally formed rod (14) positioned through the aperture; a fan apparatus (13) removably coupled to the rod on the inner opposite side of the lid. Regarding claim 17, the frame includes mounting slots in the back for mounting the frame on a wall (see fig. 1, col. 1, lines 70-72). Regarding claim 18, the stirring mechanism includes a handle (15a). Regarding claim 22, Stockton ('649) discloses a reusable paint container comprising a body (10) configured for holding paint within an integral paint compartments (50) each having front, back, first and second sides; a lid (40) removably coupled to the paint compartments having an outer side, an inner opposite side and a small aperture

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(through 44) through the lid; a stirring mechanism (13,14,15,16,17) removably coupled to the lid having an integrally formed rod (14) positioned through the aperture; and a fan apparatus (13) removably coupled to the rod on the inner opposite side of the lid.

Regarding claim 23, the paint compartment is single walled (see fig. 3). Regarding claim 24, the frame includes mounting slots in the back for mounting the frame on a wall (see fig. 1, col. 1, lines 70-72). Regarding claim 25, the stirring mechanism includes a handle (15a).

5. Claims 22, 23 and 25 are rejected under 35 U.S.C. 102(b) as being anticipated by Rogers (US 2,269,736). Claims 22, 23 and 25 are rejected under 35 U.S.C. 102(b) as being anticipated by Rogers (US 2,269,736). Regarding claim 22, Rogers ('736) discloses a reusable paint container comprising a body (6) configured for holding paint within an integral paint compartment having front, back, first and second sides; a lid (7) removably coupled to the paint compartments having an outer side, an inner opposite side and a small aperture (see fig. 1) through the lid; a stirring mechanism (29,30,31,32,33) removably coupled to the lid having an integrally formed rod (14) positioned through the aperture; and a fan apparatus (35,37,40,41) removably coupled to the rod on the inner opposite side of the lid. Regarding claim 23, the paint compartment is single walled (see fig. 1; col. 1, lines 40-43). Regarding claim 25, the stirring mechanism includes a handle (33).

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 19 and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Stockton ('649) in view of Weber (US 5,400,916). The container of Stockton ('649) was discussed above with regard to claims 16 and 22. While the interior of Stockton ('649) has a reservoir area, it fails to include a sloped area. Weber ('916) teaches that paint containers with sloped areas are particularly advantageous for engaging paint rollers (see col. 2, lines 4-11); therefore, it is considered that it would have been obvious to one of ordinary skill in the art to have endowed the paint compartment of Stockton ('649) with a sloped area to realized this advantage.

8. Claims 20 and 27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Stockton ('649) in view of Weber ('916) as applied to claims 19 and 26, respectively, above, and further in view of Rodriguez (US 5,630,666). Stockton ('649) fails to disclose and Weber ('916) fails to teach a centrally located circular depression having a small hole in the center. Rodriguez ('666) teaches a centrally located circular depression (16) having a small hole (18) in the center. Rodriguez ('666) teaches that such an arrangement provides easier dispensing of paint (see col. 1, lines 6-8); therefore, it is considered that it would have been obvious to one of ordinary skill in the art to have provided the reservoir area of Stockton ('649) in view of Weber ('916) with a centrally located circular depression (16) having a small hole (18) in the center to achieve easier dispensing as taught by Rodriguez ('666).

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9. Claim 26 is rejected under 35 U.S.C. 103(a) as being unpatentable over Rogers ('736) in view of Weber ('916). The container of Rogers ('736) was discussed above with regard to claim 22. While the interior of Rogers ('736) has a reservoir area, it fails to include a sloped area. Weber ('916) teaches that paint containers with sloped areas are particularly advantageous for engaging paint rollers (see col. 2, lines 4-11); therefore, it is considered that it would have been obvious to one of ordinary skill in the art to have endowed the paint compartment of Rogers ('736) with a sloped area to realized this advantage.

10. Claim 27 is rejected under 35 U.S.C. 103(a) as being unpatentable over Rogers ('736) in view of Weber ('916) as applied to claim 26 above, and further in view of Rodriguez (US 5,630,666). Rogers ('736) fails to disclose and Weber ('916) fails to teach a centrally located circular depression having a small hole in the center. Rodriguez ('666) teaches a centrally located circular depression (16) having a small hole (18) in the center. Rodriguez ('666) teaches that such an arrangement provides easier dispensing of paint (see col. 1, lines 6-8); therefore, it is considered that it would have been obvious to one of ordinary skill in the art to have provided the reservoir area of Rogers ('736) in view of Weber ('916) with a centrally located circular depression (16) having a small hole (18) in the center to achieve easier dispensing as taught by Rodriguez ('666).

11. Claim 28 is rejected under 35 U.S.C. 103(a) as being unpatentable over Rogers ('736) in view of Briggs (US 6,109,482). The container of Rogers ('736) was discussed above with regard to claim 22. Rogers ('736) fails to disclose a body having rounded

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ribs on a first side and rounded channels on a second side so that multiple containers can be connected by the ribs and channels. Briggs ('482) teaches a body having rounded ribs (44) on a first side and rounded channels (42) on a second side so that multiple containers can be connected by the ribs and channels. It is considered that it would have been obvious to one of ordinary skill in the art to have endowed the body of Rogers ('736) with ribs and channels to gain the advantage of convenience taught by Briggs ('482) (see col. 2, lines 25-30).

Response to Arguments

12. Applicant's arguments have been fully considered but they are not persuasive.

13. Applicant argues that Stockton ('649) does not disclose storage compartments having a front, back, first side second side and base. The examiner considers that "paint can 50" meets all these limitations.

14. Applicant argues that Stockton does not disclose a frame configure for holding the paint storage compartments. However, fig. 1 clearly depicts such a frame. A written description of the frame is provide in col. 1 line 56 to col. 2 line 7.

15. Applicant argues that the means for dispensing of Stockton ('649) is not removeably coupled. However, col. 3 lines 15-26 provide a detailed description of how the dispensing means may be removed.

16. Applicant argues that Stockton ('649) does not disclose a stirring assembly which is removably coupled to the lid. However, col. 3 lines 5-11 discloses exactly such a capability.

17. While the examiner agrees with applicant's statement that Rogers ('736) does not disclose "a second body from holding the paint can itself". However, the examiner believes that none of the claims to which Rogers ('736) has been applied require a paint can in combination with a second body holding the paint can.

18. Applicant argues that Rogers ('736) does not disclose storage compartments having a front, back, first side second side and base. The examiner considers that "paint can 6" meets all these limitations. The fact the can is circular does not preclude it from have front, back, left and right sides. The instant claims do not require planar side walls.

19. Applicant argues that the fan apparatus of Rogers ('736) is not removably coupled to a rod. However, pins (36 and 37) provide such a capability. Furthermore, with the fan apparatus removed, shaft (14) can be slit upwardly through the lid to be removed therefrom.

20. More generally, applicant is referred to *In re Dulberg*, 289 F.2d 522,523, 129 USPQ 348, 349 (CCPA 1961) regarding the obviousness of making a part removable.

Conclusion

21. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within

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TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to David L. Sorkin whose telephone number is 703-308-1121. The examiner can normally be reached on 7:30 - 5:00 Mon.-Thur., Alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wanda L. Walker can be reached on 703-308-0457. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9310 for regular communications and 703-872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.

D. Sorkin

David Sorkin

November 20, 2001

Charles E. Cooley

**CHARLES E. COOLEY
PRIMARY EXAMINER**